

REMARKS/ARGUMENTS

Claims 1-12 are pending. Claims 1-8 and 10-12 are rejected as anticipated by Kunz. Claim 9 is rejected as unpatentable over Kunz in view of U.S. Patent No. 5,527,616 to Hatano et al.

Applicant appreciates the Examiner's withdrawal of the prior rejections under 35 U.S.C. § 112, first and second paragraphs, and the rejection of Claim 9 under 35 U.S.C. § 102(b).

The Examiner's rejections are based on the reasoning that the term "metallized" used in the present claims is broad enough to read on Kunz's ceramic coating, which Kunz states can contain "the corresponding metals, at least in smaller quantities." From this, the Examiner has reasoned that "the ceramic layer containing the corresponding metals apart from the oxides represents metallization of the polyester even though the metals are in smaller concentrations than the metal oxides."

Applicant respectfully disagrees with this reasoning. This is not a case where the open "comprising" term used in the claim causes the claim to read on a polyester film having any amount of metal present on its surface, as the Office Action seems to suggest. Instead, the present claims employ a very well-known, art-recognized term, "metallized", when referring to the polyester film. This term, as understood in the art, encompasses a film of essentially pure metal deposited on the film surface. The present claims thus do not encompass, and are not intended to encompass, a polyester film having a ceramic (metal oxide) coating, even if the oxide contains smaller concentrations of pure metal.

Applicant respectfully submits that it is improper for the Examiner to substitute his own meaning for a term that already has an accepted meaning in the art. Those in the art understand "metallized" to refer to metal in substantially pure form deposited on the film. This is evidenced by, for example, U.S. Patent No. 5,209,972 at column 1, lines 56-67, as Applicant noted in the previous Amendment. Additionally, U.S. Patent No. 5,106,670 (copy enclosed) exhibits the same usage and definition of the term "metallized" at column 3, lines 44-68. Other examples

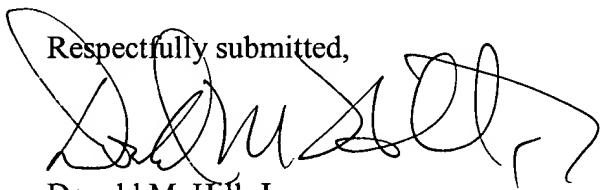
could also be cited. Not coincidentally, Kunz, on which the Office Action relies, does not refer to his ceramic coating as a metallized coating.

Given this correct construction of the present claims, it is evident that Kunz does not teach or suggest the claimed packaging structure. Accordingly, it is respectfully submitted that the rejections based on Kunz should be withdrawn, and that the claims are patentable.

Conclusion

Based on the above remarks, it is submitted that the application is in condition for allowance. The Examiner is invited to telephone the undersigned if there are any remaining issues requiring resolution before a Notice of Allowance can be issued.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

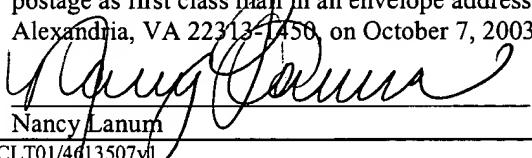
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 7, 2003


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